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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Telephone Number Portability	CC Docket No. 95-116

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Further Supplemental Comments of Bell Atlantic

The supplemental comments filed in response to the Commission's request show broad consensus concerning the effect of the passage of the Telecommunications Act on this proceeding. Commentors generally agree that the Commission is well under way towards satisfying the mandate Congress gave it in section 251(b)(2) to develop requirements for permanent number portability arrangements. There is also general agreement on the necessity of a single, nationwide permanent plan and that inconsistent State initiatives would disserve the public. There are some areas of disagreement, however.

Permanent Number Portability. Some commentors ask the Commission to order the implementation of permanent number portability as early as next year.[1] Bell Atlantic believes that MFS is more realistic when it cautions that it will "take some time to implement permanent number portability."[2]

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1 *E.g.*, Time Warner at 10; MCI at 6; AT&T at 2; Sprint at 5.

2 MFS at 4.

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A number of these same commentors say that the "technical feasibility" language in section 251(b)(2) means that the Commission must order the implementation of a service that, while theoretically possible, is not yet available, let alone tested and proven.[3] Such a course would plainly be irresponsible and, contrary to the claims of some commentors, unprecedented.[4]

Although it is important that the Commission ensure that permanent number portability is implemented on a uniform, interoperable basis throughout the country, this does not mean that the Commission must define technical standards that are not related to interoperability. As Pacific Bell stresses, each carrier should be permitted to select the triggering mechanism that is best for its network.[5]

Finally, MCI argues that any permanent number portability plan must "treat all calls the same."[6] There is no reason to impose this rigid standard. As long as the arrangement does not impair the "quality, reliability, or convenience" of the service,[7] it meets the statutory requirements.[8]

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[3] *E.g.*, Time Warner at 4-5; MCI at 6.

[4] Time Warner incorrectly points to equal access and 800 database access as services that were imposed before they were available. Equal access, of course, was not imposed on AT&T; AT&T agreed to make it available as part of its consent decree agreement. 800 database was commercially available and actually in use before the Commission ordered its nationwide deployment in 1991.

[5] Pacific Bell at 3-4.

[6] MCI at 8-9.

[7] 47 U.S.C. § 153(30).

[8] MCI's argument here is reminiscent of MCI's argument on equal access in the early 1980's, when it claimed that exchange access was not equal unless it was provided over technically identical facilities. *E.g.*, Response of MCI Communications Corp. to Operating Companies' Memoranda at 2-6, *United States v. AT&T*, Civ. Act No. 82-0192 (D.D.C. June 10, 1983). Judge Greene rejected this "absolute technical equality" standard and required simply that consumers should "perceive no qualitative differences." *United States v. AT&T*, 569 F. Supp. 1057, 1063 (D.D.C. 1983).

LRN as a "Final Solution". Some commentors would have the Commission believe that LRN is an actual service that can provide number portability and that everybody in the industry supports it. AT&T (which developed the technology) calls LRN "the consensus choice,"[9] while Teleport deems LRN "the de facto national standard."[10] Notably absent from the LRN fan club, however, are most of the local exchange carriers which would actually have to use LRN on the billions of calls originating in their networks and which have a variety of operational concerns about LRN in its current form. [11] Until these issues are resolved, the Commission should not order the implementation of LRN.

More important, LRN is merely a call handling protocol — a concept, albeit a promising concept. It is not a service, with defined technical and operational specifications. It would be premature for the Commission to order the deployment of a concept, before the service has actually been fully specified. Until that is done, the Commission will not be able to understand what LRN can and cannot do and its effects on existing consumer services.[12]

In addition, it may well be that LRN is just one piece of the solution. For example, as currently proposed, LRN would require a database query for *every* inter-switch call to an NXX in which portability is available, whether the called number has been ported or not. This means that there will be millions of unnecessary queries every day — thousands of pointless database transactions for every query that results in a ported number. Pacific Bell calculates the price tag for

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9 AT&T at 2.

10 Teleport at 7. Similarly, Sprint at 2 (the industry has "already coalesced to a large degree" around LRN); Cox at 8 (there is a "developing consensus around LRN").

11 *E.g.*, Pacific Bell at 3-4; NYNEX at 5-6; GTE at 5.

12 NYNEX, for example, reports that LRN might not ensure the proper operation of features like automatic recall and automatic callback. NYNEX at 5.

this inefficiency to be $1 billion in California alone.[13] While such a system may be "technically feasible," one questions whether it is the sort of "rapid, efficient" telecommunications system Congress had in mind.[14]

The industry's understanding of LRN is like its understanding of billed party preference in 1992 — the concept sounds attractive for consumers and carriers, but the details are unknown.[15] As with billed party preference in 1992, the industry has not gone through the rigorous process of fully defining all the specifications of the service, thinking through what would really be required to implement it on a nationwide basis and analyzing its effects on other services. When the Commission forced the industry to apply this discipline to billed party preference, the industry found that the service could affect other existing services and would cost several times more than had been generally believed. The Commission should require the same discipline of the industry before it adopts LRN as the national number portability standard.

Cost Recovery. Whatever system is adopted, it is clear that permanent number portability will be an expensive undertaking. It would be irresponsible of the Commission to order the implementation of any system without at the same time resolving the cost recovery issues. In this regard, a useful model for the Commission is the way it handled 800 database access, deciding

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[13] Pacific Bell at 7.

[14] *See* 47 U.S.C. § 151.

[15] The developmental status of LRN is very different from that of 800 database access when the Commission ordered its deployment in 1991. At that time, 800 database was fully defined and specified and was actually in use for intrastate 800 calls.

the major cost recovery issues in the same order in which it required the deployment of the service.[16]

The Act requires that the costs of final number portability "be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[17] A number of commentors offer some creative readings of this provision, which could result in no cost recovery at all. These providers claim that the incumbent local exchange carriers, which will have to incur the bulk of the costs of implementing any system of permanent number portability, should not be allowed to recover their expenses from other providers.[18] Under such a scheme, the only way for the incumbent carrier to recoup its investment would be from its existing end user customers. It would make no sense for the Commission to adopt a plan that recovers the costs of portability from the very customers who do not use it and derive no benefit from it, and there is nothing in the legislative history of the Act to suggest that Congress intended to require such a radical departure from traditional cost recovery mechanisms.

Furthermore, raising the rates of the remaining customers of the incumbent local exchange carrier to pay for services provided to those customers who have switched to another provider can hardly be characterized as "competitively neutral." Rather, it would give these customers added incentive to switch to another provider.

MFS proposes not only that the incumbent local exchange carrier not be allowed to recover its costs from other carriers, but also that these carriers bear most of the common costs of

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16 *In the Matter of Provision of Access for 800 Service*, 6 FCC Rcd 5421 (1991) and 4 FCC Rcd 2824 (1989).

17 Section 251(e)(2).

18 *E.g.*, Teleport at 5; Omnipoint at 8.

the system. MFS says that all carriers should contribute to the common costs based on what they receive from end user customers,[19] a proposition that might make some sense if properly applied. However, the formula MFS proposes would greatly favor resellers and other providers which buy significant services from facilities-based carriers by excluding from a carrier's revenues any amounts that it pays to another carrier. If MFS really wants to apportion costs based on end user revenues, these payments should not be excluded.

Interim Number Portability. Some commentors urge the Commission to adopt rules concerning interim number portability. This is unnecessary. Unlike permanent number portability, interim number portability is provided by capabilities that already exist in local exchange carrier networks and that can be made available upon request. The Act, in section 252, establishes a process for carriers to obtain these capabilities and for state commissions to resolve any disputes among the carriers promptly through arbitration. There is no evidence that this process is flawed or is not working.

One commentor says that the Commission needs to address interim number portability because a Bell company could terminate interim arrangements once the Commission issues its rules for permanent portability.[20] This concern is unfounded for several reasons. First, the Bell company would presumably have interconnection agreements under which it would be obligated to provide the interim arrangement until the permanent system was operational and could not simply terminate the interim arrangement without breaching its contract. Second, any interim arrangement provided to one carrier would be available to others pursuant to section 252(i). And,

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19 MFS at 6.

20 ALTS at 3.

finally, carriers could obtain other interim arrangements through the section 251/252 negotiation-arbitration process.

The Commission should also reject the suggestions of some commentors that interim number portability be provided for free.[21] Incumbent LECs incur real economic costs to provide remote call forwarding and direct inward dialing services, and their shareholders should not be required to absorb these costs in order to facilitate market entry by competitors. The requirement in section 251(e) that cost recovery for number portability be "competitively neutral" does not produce a different result. Nothing could be less "competitively neutral" than to require one provider to subsidize its competitor's marketing efforts by giving the competitor free service. The Commission should reject these arguments and leave the pricing of capabilities for providing interim number portability to the States as Congress intended.

Respectfully submitted,

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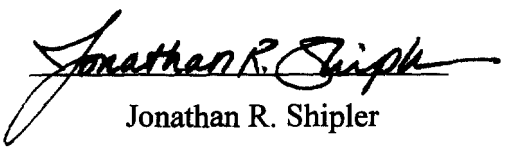
[21] *E.g.*, Time Warner at 8 n.20; MCI at 8.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Further Supplemental Comments of Bell Atlantic" was served this 5th day of April, 1996 on the parties on the attached list.



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